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EXAMINER

BAKER, LORI LYNN

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



***Response to Arguments***

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, the word "means" is preceded by the word(s) "first" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Applicant asserts that the claim element "first means" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, it is unclear whether the claim element is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph, because it is unclear whether the claim limitation is modified by sufficient structure for performing the claimed function or it is unclear whether the corresponding structure is sufficiently disclosed in the written description of the specification. If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to:

- (a) **Amend** the claim to include the phrase "means for" or "step for" in accordance with these guidelines: the phrase "means for" or "step for" must be modified by

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functional language and the phrase must not be modified by sufficient structure, material, or acts for performing the claimed function; or

(b) **Show** that the claim limitation is written as a function to be performed and the claim does not recite sufficient structure, material, or acts for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph. For more information, see MPEP § 2181.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Endelman (US Patent 7125369) in view of Simonson (US Patent 5616107). The rejection from the previous office action is incorporated herein. In response to applicant's argument that the device is not foldable in half, Endelman shows (figures 2-3) where the device *is* foldable in half. As broadly claimed, the carriage portion 100 represents half of the device and the handle portion 130 represents a second half of the device; hence the device is foldable.

### ***Conclusion***

5. Claims 1 and 3-20 are allowed. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori Baker whose telephone number is (571) 272-4971. The examiner can normally be reached on M-F, 8am-5pm. For interview requests, please contact the examiner directly and submit PTO Form 413A.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on 571-272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lori Baker/  
Primary Examiner, Art Unit 3764